

In re: National Association of Broadcasters Petition 04-160
To whom it may concern,

To summarize:

1. I ask the FCC to reject the proposal by the National Association of Broadcasters against the proprietors of XM radio and allow XM to continue carrying local Traffic and Weather Reports.
2. Carriage of the local Traffic and Weather Reports by XM offer an important public service to it's subscribers.
3. XM radio is a Subscriber service that does not affect 98.3% of the listeners to the paying members of the National Association of Broadcasters which brought forth this complaint.
4. Continuation of these Traffic & Weather reports will actually force the broadcast (AM/FM) radio services to improve their product which will, in turn, create a better product for all listeners.

Submission:

I find the attempt by the National Association of Broadcasters (hereafter referred to as simply "NAB") to prevent certain programming by the owners of XM Radio services to be both disheartening and potentially dangerous.

XM radio, as I'm sure you are already aware, is a subscriber-only service. I, and over 3 million other people, pay to receive this programming, very similar to cable or satellite television. I am seeking an alternative to the standard broadcast radio for several reasons.

The primary reason is that I travel across the country for business and have difficulty finding decent and consistent AM/FM radio coverage. XM Radio solves this problem with it's method of delivery. I have yet to find a place where I cannot receive their signal and I will travel from California all the way to New York, from North Dakota to the southernmost part of Texas. Moreover, the "channels" to which I listen do not get interrupted as I travel from one area to another.

I do not listen to XM for local news, gossip or other general information. I do listen to their simulcast of Fox News, CNN and CNN Headline news as well as many of the other services they offer.

I am a citizen of Colorado, I simply do not care which Philadelphia city council member was caught in a drunk driving scandal last night. I do not care about 99.9997% of any other cities, counties or states other than my own.

I will not buy from any of the advertisers of an AM radio Station in Boston, Mass., or visit the stores of an FM station's advertiser in San Diego, California, though I may be driving through these areas for business or pleasure and forced to listen to their advertisements.

The reason I would listen to XM's Boston Traffic channel is that I do not know the AM or FM channels which carry traffic reports. Moreover, I would actually be forced to wait until I'm under the broadcast umbrella of a radio station in Boston before I received any information to change my travel.

Let me give you an example. This example actually happened this past week as I was travelling and XM's services provided an alternative well before I found myself in a predicament:

XM radio services recently helped me as I travelled across the country this past week. I was able to turn to their St. Louis weather/traffic report and find that they were experiencing severe thunderstorms and were under a National Weather Service Flash Flood Warning.

I was able to actually improve and plan my travel by re-routing North and avoiding St. Louis and the weather difficulties. . .while I was travelling through Eastern Kansas, before it became a potentially life-threatening situation.

No local AM or FM station could have helped me make this decision. Were I to have waited until I was within broadcast range of any St. Louis station, I would have been unable to make a timely change to my travel plans. Moreover, I would have had to wade through scores of stations on both AM and FM in the hopes that I would catch someone giving a weather report. . .through all the music, chat, news and advertising.

Now. . .if I may give a second example. This one is where local AM and FM services FAILED to assist me in a potentially life-threatening situation:

On Saturday, 29 May 2004 my wife and I were travelling through western Kansas on I-70. We could see a major storm front heading our way. We turned off our XM radio and started scanning the AM and FM channels for information.

We did get lots of information. . .about several automobile dealerships having Memorial Day sales, about a band playing in Hays, Kansas Saturday night, about the dangers of drinking and driving and information on how we must speak to our daughter about smoking pot. We got to listen to snippets of Country music, Top 40, agricultural news, and how caller #10 to one channel could win a Radio Station T-shirt if they could guess who sang the 80's song "One Night in Bangkok" (btw, it was Furry Head & the Favorites, from the Broadway play "Chess").

After over 30 minutes of scanning, we still did not hear ANY news or information about the severe weather into which we were heading. So, we figured that there was no real threat.

We learned otherwise as we entered the front of the storm with 70 mph southerly winds (we were travelling west). That giant brown wall we entered was the dirt and topsoil picked up by the storm. That same storm spawned several tornadoes across Central Kansas. Strangely, we could not find any warnings of this severe weather on a Saturday afternoon in Western Kansas or Eastern Colorado. At one point, perhaps because of the atmospheric conditions, we couldn't receive ANY AM or FM stations as we drove through the storm.

Our XM? Kept on receiving all 100+ stations.

While I do understand that NAB must do whatever it can to reduce competition from outsiders for the broadcasters who pay for NAB's services, I might remind those who make the decision at the FCC that to be a member of NAB, one must first PAY the NAB for their services. . .including the services of the NAB's Political Action Committee, TARPAC.

By not interfering with XM Radio's broadcasting valuable information to it's SUBSCRIBERS (please keep in mind that no one can receive this information without a subscription and specialized equipment), the FCC will actually force AM/FM stations to improve their services to the general public.

This is 100% in agreement with the statement made by the FCC to taxpayers in it's document "About the FCC: A Consumer Guide to our Organization, Functions and Procedures" (Document 229127A1) which states on Page 3:

"The FCC is working to make sure the nation's communications systems are working seamlessly and competitively in your best interest."

It further states in this document that the FCC's Enforcement Bureau ". . . fosters efficient use of the spectrum while furthering public safety goals. . . ."

Competition breeds innovation and improvement. If AM/FM broadcasters are feeling the pinch of competition, they will be forced to improve their services.

In the second case cited above, AM and FM FAILED me, the consumer. The only method of receiving information, had it been available, was XM radio.

I also ask the FCC to please keep in mind that the NAB is worrying about a competitor to it's paying members who total approximately 1.7% of the purported listeners to the NAB's customer's stations. NAB states on their website that their paying members reach approximately 170,000,000 listeners. XM states they have approximately 3,000,000 subscribers.

I am among those 3,000,000 subscribers. I CHOSE not to listen to AM/FM radio for various reasons. When I do want a local station, I turn off my XM radio and turn on the regular radio and listen.

As a consumer of XM Radio and as a taxpaying American Citizen, I urge the FCC to deny this complaint by the NAB and prevent these restrictions from being emplaced upon a viable and effective method of entertainment and news.

By passing such limitations the FCC will be limiting the growth of what may be a fantastic public safety venue in the future. By preventing XM to grow and expand it's services, we will never know the potential of this exciting technology.

America was built on competition and capitalism. Capitalists made money by providing a better product. Their competitors made money by coming out with a even better product, forcing the invention and creation of an improvement on the already improved product.

If AM/FM is feeling the pinch, then great! It's what this country is all about. If the FCC capitulates to the NAB, then it is, in my personal opinion, stifling improvement of new technology and preventing the growth of the marketplace, both of which will serve to benefit both capitalists and consumers.

For what it's worth, I will not go into a "freedom of speech" diatribe. There really is no need, others can (and have) put that argument forth better than I could.

Thank you, and I urge anyone at the FCC to feel free to contact me for any comments or questions.

For the record, I am NOT an investor in XM other than to subscribe to it's services. I own no stock and am not a member of it's corporation or partnership.